

United States Courts
Southern District of Texas
FILED

Appendix B

APR 02 2025

Nathan Ochsner, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
DIVISION

Thomas A. Martinez

versus

UNITED STATES OF AMERICA
DEPARTMENT OF VETERANS AFFAIR OFFICE

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CIVIL ACTION NO. _____

ORIGINAL COMPLAINT

Why do the courts have Jurisdiction over my case.

- A. I Thomas A. Martinez submitted a tort claim with the U.S. department of Veterans affairs office General Counsel. In Washington D.C. I received a certified letter from them stating that my case was denied. Now I'm asking the courts for relief.
- B. Duty of Care.
1. Dr. Sabichi and Dr. Jackson owed to me a duty of care, which was available at their oncology clinic, at the Micheal E. DeBakey V A Hospital in Houston Texas. The treatment was Target Therapy, the Sotorasib tablets. This treatment is only available to patients with specific types of lung cancer, the lung cancer I have is specifically for this treatment. Both Dr. Sabichi and Dr. Jackson only offered chemotherapy.
- C. Breach of Duty
1. Dr. Sabichi and Dr. Jackson Breached their duty to me when they failed to offer me another form of treatment for my lung cancer, which was the target therapy Sotorasib tablets.
- D. Breached cause Injury
1. Dr. Sabichi and Dr. Jackson Breach caused more injury to me, which resulted in 4 treatments of Chemotherapy, at the begging of the Chemo, cancer was only in left lung, after the 4th Chemo treatment, cancer was in right lung as well, now both lungs have cancer stage 4. Yet they insisted that I have more

chemo. I said no Chemo. They told me that I only have no than 6 months to live. Letter attached.

E. Victim Suffered Injuries

1. Dr. Sabichi made me suffer with intangible losses such as emotional distress, pain, suffering, and loss of enjoyment of life. Asking for \$1,000,000 in damages, for the Quality of life that was taken from me. I have been taking the target therapy Sotorasib tablet, for 8 months. My Quality of Life has improved, I still have cancer, never going away.

I Thomas A. Martinez Certify under the penalty of perjury under the laws of the United States of America. The foregoing statement is true and correct.

Signed



Thomas A. Martinez

Date 03/31/2025

20106 Bandera Lake Lane

Richmond Texas, 77407

832-449-0181



DEPARTMENT OF VETERANS AFFAIRS
Michael E. DeBakey VA Medical Center
2002 Holcombe Boulevard
Houston, TX 77030

Date: 03/26/2024

To Whom It May Concern:

Mr. Martinez, (DOB 03/07/1951), is a patient at the Michael E. DeBakey VA Medical Center in Houston, Texas. This is a 73 year old gentleman with metastatic adenocarcinoma of the lung.

Although it is not possible to predict life expectancy exactly, according to my estimation, the Veteran is expected to live less than 6 months.

Please contact my office with any questions at (713) 791-1414 x 223967.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Jackson".

Leanne Kolnick Jackson, M.D.
Palliative Medicine
110 Extended Care Line
Michael E. DeBakey VA Medical Center
2002 Holcombe Blvd, Houston, TX 77030
Office 713 791 1414 x223967

Thomas Martinez

529-76-4304

First Chemo 11/14/2023

I Thomas Martinez was diagnosed with lung cancer back in September in 2023. I was in the Hospital at the Houston VA; I was put in quarantine for the possible of Tuberculosis. While there I was also waiting for the results of my biopsy for my left lung. When my biopsy results were in, a Dr. From the team under Dr. Lazarus my HOU-PULMONARY Dr. came into my room sat at the foot of my bed, and told me that he had good news, I asked him what it was he told me that I didn't have cancer. I was excited about the news I called my wife and told her the good news; she came from home rushing to share the excitement. While we were together for about one hour, after she got there the rest of the team Dr. Lazarus, Kand the team of doctors came in including the Dr. that said I didn't have cancer and told us that the results came in and they were positive for cancer. I could not believe what I was hearing. I looked at the doctors and said, who should I believe you or the Dr. who was also there, I pointed to him that said I didn't have cancer. I told them I would rather believe the Dr. who said I didn't have cancer. My wife started to cry with the bad news happy one minute and the next the bomb shell.

From that moment on things got worse, The Doctors were setting up a plan for my treatment, which was chemo. I asked if there were any other options for treatment. I asked about radiation, (no Tumor to big), surgery, (no tumor to big need to shrink it), Immunotherapy, (don't qualify), and last how about removing the lung and I can live with the right lung, which was good from the cancer, (no the surgery is worse than the chemo). So, I was stuck with chemo. Had no more choice. There was a choice that was in their hands and that was the SOTORASIB for lung cancer, which was never mentioned to us until June 11, 2024 when Dr. Komisarof ask if we had heard of target therapy, we answered no, he explained to us that it was a drug strictly for lung cancer, not a cure but it stops the growth and maybe shrink the cell. Also live a longer quality of life. A lot better than the first option which Dr. Sabichi gave me with only 6 months of life. She did offer me to take chemo pills, I said no chemo. Next, she offered me immunotherapy, even though I did not qualify for it. I was willing to take the infusion out of desperation. No other choice until June 11, 2023, that was the day my wife and I found out about the target therapy from Dr. Komisarof the medication was SOTORASIB, which I qualified for, from the beginning I ask him that I wanted to take it, didn't take my infusion for immunotherapy that day.

Started Chemo with Dr. Sabichi on 11/14 2023 after the first infusion of chemo. Sent home and started the process of being sick. After the first chemo I should have been offered the SOTORASIB TABLET which was at Dr. Sabichi line of treatment. Three more treatments of chemo followed the 4th treatment, cancer was worse it moved to the right lung, now cancer in both lungs. The right lung was clear of cancer when I started treatment, if Dr. Sabichi had offered me the SOTORASIB after the 1st treatment the cancer would have not passed to the right side, SOTORASIB would have blocked the cells from moving to other parts of the body I would not have gone thru all the pain and suffering, that Dr. Sabichi administer, with the chemo Now that Iam taken the SOTORASIB for the last 2 months I have, felt a lot better, eating, sleeping, no cough gaining weight. Moving about with my cane or walker not far because of the fatigue. The one

thing that bothers me a lot is that both lungs are now no longer healthy, the cancer will always be there. I still must take oxygen for the shortness of breath. Also, I always think of the Dr. who told me that I didn't have cancer. From everything that has happened it's very hard to trust.

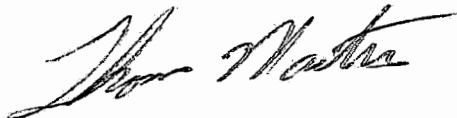
I DON'T KNOW WHY I WAS NEVER OFFERED THE SOTORASIB TABLETS, MAYBE BECAUSE OF MY AGE, RACE, OR THE COST TO THE TABLET. THE ONLY THING I DO KNOW THAT BOTH OF MY LUNGS WILL NEVER HEAL. I AM HOPING FOR A LONGER QUALITY OF LIFE. BY TAKEN THE SOTORASIB TABLET.

THE PRACTITIONER WHO HAD SEEN ME BEFORE DR. SABICHI ALL WERE THERE WHEN DR. SABICHI ORDERED THE CHEMO PILLS TO TAKE AFTER I GOT THE LETTER OF LIFE EXPECTANCY DATED 03-26-2024. ALSO DR. SABICHI SHOULD HAVE KNOWN THAT THE SOTORASIB TABLET IS NOT CHEMO OR IMMUNOTHERAPY.

I HAVE ATTACHED STATEMENTS HER ORDERING FOR ME TO TAKE THE CHEMO PILL, AND THE IMMUNOTHERAPY. DOWNLOADED FROM MY HEALTHY VET.

I Thomas Martinez Certify under penalty of perjury under the laws of the United States of America the foregoing Above Statement is true and correct.

SIGNED



THOMAS MARTINEZ

08-24-2024